UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,283	02/19/2002	Elena A. Fedorovskaya	83959RLO	7975

7590 05/08/2006

Thomas H. Close
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

EXAMINER	
CUNNINGHAM, GREGORY F	
ART UNIT	**PAPER NUMBER**
2628	

DATE MAILED: 05/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/079,283	FEDOROVSKAYA ET AL.	
	Examiner	Art Unit	
	Gregory F. Cunningham	2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 February 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) *2,3,8 and 10-20* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4-7 and 9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 April 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to communications of amendment received 2/13/2006.

2. The disposition of the claims is as follows: claims 1-20 are pending in the application. Claims 1 and 9 are independent claims. Claims 2, 3, 8 and 10 have been cancelled. Claims 11 - 20 have been withdrawn.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Ebisawa (US 6,449,442 B1).

A. Ebisawa discloses claim 1, "A method for determining the degree of interest for a plurality of digital images [col. 7, lns. 29-37] comprising the steps of:

a) sequentially displaying on an electronic display the plurality of digital images for viewing by a user while watching a real-time picture [corresponds to 'that is, a picture based on the video signal V2) through the monitor 14' of col. 7, lns. 29-37];

b) electronically monitoring the viewing time for each of the plurality of digital images [corresponds to 'with the time code of that timing' of col. 7, lns. 29-37];

c) using the electronically monitored viewing time to determine the degree of interest for the plurality of digital images [corresponds to 'the operator can input a value of the importance degree in terms of scene while watching a real-time picture (that is, a picture based on the video signal V2) through the monitor 14' of col. 7, lns. 29-37]; and

d) storing electronic information indicating the degree of interest as image metadata associated with at least one image of the plurality of digital images [The inputted importance degree value is stored with the time code of that timing, and that storage is carried out in the hard disk 15a. However, the hard disk 15a is not always required to be used, but it is permissible to use the RAM 10B in the CPU 10 if its capacity is sufficient.' of col. 7, lns. 29-37]" [as detailed].

B. Per independent claim 9, this is directed to the method for performing the method of independent claim 1, and therefore is rejected to independent claim 1, wherein 'inputted importance and time code correspond to "metadata".

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ebisawa as applied to claim 1 above, and further in view of Li et al. (Pub No.: US 2003/0063798), hereinafter Li.

A. Ebisawa discloses claim 4, "The method of claim 1 wherein the degree of interest is determined by relating the viewing time for the at least one digital image with the average viewing time for the plurality of digital images" supra for claim 1. However, Ebisawa does not appear to disclose "wherein the degree of interest is determined by relating the viewing time for the at least one digital image with the average viewing time for the plurality of digital images", but Li does in [para. 0035, wherein exciting part of the game corresponds to "the degree of interest is determined by relating the viewing time for the at least one digital image" and 'the remaining time during the football game is typically not exciting' and exciting time' corresponds with "with the average viewing time for the plurality of digital images"].

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply operator can input a value of the importance degree in terms of scene while watching a real-time picture disclosed by Ebisawa in combination with exciting time compared to non-exciting time disclosed by Li, and motivated to combine the teachings because it would compact the representation of the original video as revealed by Li in para. [0002].

7. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ebisawa as applied to claim 1 above, and further in view of Black et al., (US 5,802,220 A), hereinafter Black.

A. Claim 5, "The method of claim 1 further including the step of monitoring the facial expression of the user" is disclosed by Ebisawa supra for claim 1. However, Ebisawa does not appear to disclose "further including the step of monitoring the facial expression of the user", but Black does in col. 28, lns. 13-29.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply viewing video disclosed by Ebisawa in combination with attention level of viewers smiling or laughing as disclosed by Black, and motivated to combine the teachings because it would provide for recognizing non-rigid or deformable motion of facial features over a sequence of images as revealed by Black in col. 1, lns. 35-38.

B. Claim 6, "The method of claim 5 wherein the smile size of the user is determined for each of the plurality of digital images" is disclosed supra for claim 5.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply viewing video disclosed by Ebisawa in combination with attention level of viewers smiling or laughing as disclosed by Black, and motivated to combine the teachings because it would provide for recognizing non-rigid or deformable motion of facial features over a sequence of images as revealed by Black in col. 1, lns. 35-38.

an average smile size" is disclosed supra for claim 6. Wherein smiling or laughing corresponds to smile size.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply viewing video disclosed by Ebisawa in combination with attention level of viewers smiling or laughing as disclosed by Black, and motivated to combine the teachings because it would provide for recognizing non-rigid or deformable motion of facial features over a sequence of images as revealed by Black in col. 1, lns. 35-38.

Response to Arguments

8. Applicant's arguments with respect to claims 1, 4, 5-7 and 9 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Responses

10. Responses to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Inquiries

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory F. Cunningham whose telephone number is (571) 272-7784.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on (571) 272-7794. The Central FAX Number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

G.F. Cunningham

Gregory F. Cunningham
Examiner
Art Unit 2628

Kee M. Tung
Primary Examiner

gfc

4/28/2006